

SUMMARY REPORT OF INVESTIGATION
Office of Inspector General Case # 15-0564
(Chief Eugene Roy)
August 17, 2016

This report consists of a summary of the evidence set out in the attached investigative materials and the Office of Inspector General's (OIG's) analysis of that evidence. An index of the investigative materials is attached.

I. INTRODUCTION

An OIG investigation has established that Chicago Police Department's (CPD) Bureau of Detectives Chief Eugene Roy, who, as Commander of the Area Central Detective Division, had formal supervisory responsibility for CPD's investigation related to CPD Officer Jason Van Dyke's October 20, 2014 shooting of Laquan McDonald, violated CPD Rules and Regulations during that investigation. More specifically, and as detailed further below, Roy failed to ensure that the investigative team under his supervision produced truthful and objective reports. Roy also failed to take corrective action after conducting his review, mandated by CPD special order, of the materially false reports produced by his subordinates, which served to exaggerate the threat McDonald posed. Roy let stand reports containing materially false statements and conclusions despite viewing video of the shooting within hours of its occurrence and possessing ongoing knowledge of the investigation as it unfolded. By failing to adequately carry out his supervisory responsibilities, Roy impeded CPD's efforts to achieve its policy and goals (Rule 2), failed to promote CPD's efforts to implement its policy and accomplish its goals (Rule 3), disobeyed an order requiring that he hold his subordinates strictly accountable for appropriate reporting (Rule 6), and was incompetent in the performance of his duties (Rule 11). Accordingly, OIG recommends that CPD discharge Roy and refer him for placement on the ineligible for rehire list maintained by the Department of Human Resources.

II. APPLICABLE RULES, REGULATIONS, AND LAW

A. CPD Rules and Regulations

CPD's Rules and Regulations set out the standards of conduct and duties of sworn members, including supervisory members, as well as CPD goals. The Rules and Regulations state that sworn members must "conduct themselves at all times in such a manner as will reflect credit upon the Department with emphasis on personal integrity and professional devotion to law enforcement." Supervisory members "have the responsibility for the performance of all subordinates placed under them" and they "[r]emain accountable for the failure, misconduct or omission by their subordinates."

Article V of the CPD Rules and Regulations, entitled CPD Rules of Conduct (the CPD Rules), sets forth specifically prohibited acts. In pertinent part, the CPD Rules include the following prohibitions:

- Rule 2** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 6** Disobedience of an order or directive, whether written or oral.
- Rule 11** Incompetency or inefficiency in the performance of duty.

B. CPD Special Orders

CPD Special Orders are directives that establish protocols and procedures concerning specific CPD functions, operations, programs, or processes. CPD Special Orders are directives that establish protocols and procedures concerning specific CPD functions, operations, programs, or processes. Addendum 1 to Detective Division Special Order 11-01, titled "Homicides and Sworn Weapon Discharge Incidents," effective from May 9, 2011, to January 1, 2015, states that detectives investigating homicides or weapon discharge incidents involving sworn members will "[t]horoughly document relevant information discovered during the course of the investigation" and "[r]ecord relevant information initially transcribed on General Progress Reports or other investigative documents to formatted Department reports (e.g. Supplementary Report, General Offense Case Report, etc.)."¹

Bureau of Detectives Special Order (BDSO) 14-13, titled "Reporting Guidelines," was in effect from November 13, 2014 to January 1, 2015, and was then re-issued on January 1, 2015, as BDSO 15-13.² The order states that "[i]t is the policy of the Bureau of Detectives to comprehensively and accurately document all steps taken during the course of an investigation." Further, it requires that "Area Commanders will hold detectives and supervisors strictly accountable for failure to comply with the provisions of this directive."

BDSO 14-17, titled "Police Involved Shooting Guidelines," was in effect from November 21, 2014 to January 1, 2015, and was then re-issued on January 1, 2015 as BDSO 15-17.³ Under the heading "Investigative File Review and Retention," Section V.A. of the order required that "[u]pon completion of the investigative file, the assigned sergeant will forward the file to the Area Commander for review."

¹ OIG 15-0564 009121-23.

² OIG 15-0564 009054-56. See OIG 15-0564 009012. In CPD documents, special orders governing the Bureau of Detectives are referred to as both Detective Division Special Orders and Bureau of Detectives Special Orders. Hereafter, they are referred to as Bureau of Detectives Special Orders (BDSOs).

³ OIG 15-0564 009068-71. See OIG 15-0564 009012.

BDSO 15-22, titled “Justifiable Homicides,” outlines the protocols that CPD members in the Bureau of Detectives are to follow regarding justifiable homicides.⁴ The order defines a justifiable homicide as either “the killing of a felon by a peace officer in the line of duty,” or “the killing of a felon by a private citizen during the commission of a felony.” Section III of BDSO 15-22 outlines reporting procedures for justifiable homicides and requires that:

- A. When an incident is determined to be a justifiable homicide, the assigned detective will obtain a second RD number. The first case will bear the classification of the crime the felon was committing. The second RD number will be for the justifiable homicide. Detectives will not identify a person lawfully entitled to use deadly force as an ‘Offender.’
- B. The facts detailing the entire investigation will be reported in the justifiable homicide report.

***Note:** The narrative section of the original felony report will state, ‘The facts of this case are reported under RD# _____. For complete details, refer to that investigation.’ (Emphasis in original).

....

- E. Detectives will state in their reports that no charges were placed at this time. They will not state that use of deadly force was justified.

III. CHIEF EUGENE ROY’S EMPLOYMENT HISTORY

Roy was hired by the City of Chicago in 1972 as a Cadet with the Fire Department. He joined CPD in 1977 as an Investigator and became a police officer in 1986. Roy was promoted to Sergeant in 1994, to Lieutenant in 1998, to Captain in 2001, to Commander in 2005, and to Deputy Chief and then Chief in 2015. He is currently Chief of CPD’s Bureau of Detectives, and was Commander of the Area Central Detective Division as of October 20, 2014. In his role as Commander, Roy supervised the CPD members who conducted the McDonald investigation, including Lieutenant Anthony Wojcik, Sergeant Daniel Gallagher, and Detective David March.⁵ Roy also supervised Lieutenant Osvaldo Valdez, who was present at the scene of the shooting and attended internal CPD meetings regarding the investigation.

⁴ OIG 15-0564 009416-17. According to documents dated April 28, 2016 which OIG received from CPD, BDSO 15-22 remained in effect at least as of that date. BDSO 15-22 took effect on January 1, 2015, and was in place when the relevant CPD reports in this case were issued. See OIG 15-0564 009012.

⁵ See Roy 7/6/2016 OIG Tr. 161:8-17.

IV. SUMMARY OF INVESTIGATION

A. Procedural History of OIG's Investigation

By letter, dated December 8, 2015, Independent Police Review Authority (IPRA) Acting Chief Administrator Sharon Fairley requested that OIG conduct an administrative investigation “to determine whether certain police officers/witnesses made false statements on official reports prepared in connection with [Van Dyke’s shooting of McDonald] and/or during the investigation of the incident.”⁶ IPRA further requested that OIG investigate “whether any of the involved Chicago Police officers committed any other violation(s) of Chicago Police Department rules, policies or procedures in their involvement with the incident, including, but not limited to, whether any officers’ conduct may have interfered with or obstructed the appropriate investigation and handling of this matter.”

Then, by letter, dated January 13, 2016, CPD Interim Superintendent John J. Escalante requested that OIG conduct an “administrative investigation into any and all allegations of police officer misconduct” arising out of the October 20, 2014 shooting death of McDonald. The Superintendent’s request asked OIG to investigate the following allegations: “whether any officer(s) made false statements on official reports submitted in connection with the shooting of Laquan McDonald on October 20, 2014; whether any officer(s) obstructed or interfered with the investigation of this incident, either individually or in collusion with others; and whether any officer(s) committed any violation of Chicago Police Department rules, policies, or orders in connection with their response and/or handling of this matter.” Escalante attached to the letter request a copy of Sergeant Sandra Soria’s Initiation Report, which raises allegations of misconduct related to the in-car video systems of the vehicles that were present during the McDonald shooting, and identified that Report as a basis for OIG’s administrative investigation.

On March 10, 2016, Kevin Kilmer, Financial Secretary for the FOP, filed a grievance with CPD on behalf of all affected members stating that OIG’s attempts to conduct CPD officer interviews violated Article 6 of CPD’s Collective Bargaining Agreement (CBA) with the FOP.⁷ On March 16, 2016, FOP on behalf of all impacted CPD officers filed a “Complaint for Injunction in Aid of Arbitration” in the Circuit Court of Cook County, asking the court to enjoin OIG from conducting interviews until the grievance was decided in arbitration.⁸ The court dismissed the complaint and denied the injunction on March 22, 2016.

⁶ On November 24, 2015, the Cook County State’s Attorney charged Van Dyke with a single count of first degree murder in the shooting of McDonald. On December 15, 2015, it subsequently charged him with six counts of murder. OIG has not been involved with any criminal investigation related to the shooting and makes no findings regarding Van Dyke’s use of force.

⁷ Section 6.1, Paragraph I of the CBA states, “If the allegation under investigation indicates a recommendation for separation is probable against the Officer, the Officer will be given the statutory administrative proceeding rights, or if the allegation indicates criminal prosecution is probable against the Officer, the Officer will be given the constitutional rights concerning self-incrimination prior to the commencement of interrogation.” CPD General Order GO8-01-01, Paragraph K contains similar language.

⁸ *Fraternal Order of Police, Chicago Lodge 7 v. City of Chicago*, No. 2016 CH 03726 (Cir. Ct. of Cook County, Ill., Mar. 16, 2016).

OIG's administrative investigation of other CPD employees' actions related to CPD's handling of the McDonald investigation is ongoing. During the course of its investigation, OIG has gathered documents from CPD and IPRA, among other sources, and conducted numerous interviews, including interviews of several CPD personnel who were at or responded to the scene of the shooting and civilian witnesses to the shooting. To date in its ongoing investigation, OIG has recommended disciplinary action against multiple CPD personnel.

B. The Events of October 20, 2014

The following sections detail the shooting of McDonald, as well as the relevant events that occurred directly before and after the shooting.⁹

1. [REDACTED] and Rudy Barillas's Encounter with McDonald¹⁰

[REDACTED] and [REDACTED] Rudy Barillas, were parking a truck in a lot at 41st Street and Kildare Avenue when [REDACTED] saw a black male, whom she subsequently identified as McDonald, attempting to steal property from certain vehicles parked in the lot. Barillas told McDonald to leave the lot. McDonald responded by making growling noises. After Barillas again told McDonald to leave the lot, McDonald pulled out a knife and swung it at Barillas. Barillas, who had already called 911, then threw his cell phone at McDonald.¹¹ McDonald ran from the lot, first northbound on Kildare and then eastbound on 40th Street.

2. Officers Thomas Gaffney and Joseph McElligott's Encounter with McDonald¹²

Officer Thomas Gaffney and his partner Officer Joseph McElligott received a call over the radio that someone had broken into a truck at 4100 South Kildare and were dispatched to the scene.¹³

⁹ On April 22, 2016, OIG obtained maps of the locations that are relevant to the shooting from Google Maps and included those maps in Appendix A. Those maps generally reflect the street layout and location of relevant businesses as they were on the night of October 20, 2014.

¹⁰ The following account of [REDACTED] and Barillas's encounter with McDonald is taken from the March 16, 2015 case supplementary report (CSR) submitted by CPD Detective David March, which includes the statements that [REDACTED] and Barillas provided to CPD on October 21, 2014, and October 22, 2014, respectively. OIG 15-0564 003077.

¹¹ OEMC recordings reflect that Barillas called 911 at 9:45 p.m. stating that he was holding "a guy right hear [sic] that stolen [sic] the radios" from trucks in a truck yard located at "41st and Kildare." OIG 15-0564 003227.

¹² The following account of Gaffney and McElligott's encounter with McDonald is taken from (1) the audio-recorded statements Gaffney and McElligott provided to IPRA on October 21, 2014, OIG 15-0564 000482-98, 000610-30; and (2) the March 16, 2015 CSR submitted by Detective David March, which includes the statements that Gaffney and McElligott provided to March on the night of the McDonald shooting. OIG 15-0564 003067-69.

¹³ OEMC records reflect that Gaffney and McElligott received the call at 9:47 p.m. OIG 15-0564 003691.

Gaffney was driving, and McElligott was in the passenger seat of their assigned vehicle, 815R.¹⁴ When they arrived at 4100 South Kildare, they saw a Hispanic male and female standing by the gate to the truck yard. The two said that a black male wearing a black shirt, later determined to be McDonald, had been trying to steal the radio out of a semi-truck, and had subsequently headed north toward 40th Street.

Gaffney and McElligott drove north on Kildare, turned right onto 40th Street, and saw McDonald walking east on the south side of 40th Street. McElligott exited the vehicle and commanded McDonald to stop and turn around. Gaffney stayed in the vehicle in case McDonald attempted to flee. McElligott ordered McDonald to take his hands out of his pockets. McDonald, who had been facing McElligott, turned and walked away with one hand still in his pocket. McDonald then turned again and took both of his hands out of his pockets. He had a knife in his right hand. McElligott drew his weapon and told McDonald to drop the knife. McDonald started walking east again, going from the sidewalk to the street and back. McElligott followed McDonald on foot, shining his flashlight on him, while Gaffney followed in 815R, parallel to McDonald.

As McDonald approached the intersection of 40th and Keeler, Gaffney reported to dispatch that McDonald was walking away with a knife in his hand.¹⁵ Gaffney and McElligott continued to follow McDonald as he headed east, with McElligott giving McDonald orders to drop his knife and stop. McDonald kept turning around and giving the officers a “weird glaze[d] look.” Gaffney IPRA Tr. 11:20.¹⁶

As McDonald approached the intersection of 40th and Karlov, Gaffney turned his car toward McDonald to direct him down Karlov. Gaffney wanted to keep McDonald away from Pulaski,

¹⁴ Below is a chart identifying the beat numbers and vehicle numbers of the CPD vehicles that were present when McDonald was shot, along with the names of the officers who were assigned to those vehicles. This SRI refers to the below-referenced vehicles by beat number, unless otherwise specified.

Beat #	Vehicle #	Officers
845R	6412	Officer Joseph Walsh (driver), Officer Van Dyke (passenger)
815R	8489	Officer Gaffney (driver), Officer McElligott (passenger and on foot)
813R	8779	Officer Janet Mondragon (driver), Officer Daphne Sebastian (passenger)
822	8765	Officer Arturo Becerra (driver), Officer Leticia Velez (passenger)
841R	8948	Officer Ricardo Viramontes (driver), Officer Dora Fontaine (passenger)

¹⁵ OEMC recordings reflect that, at 9:53 p.m., 815R reported: “We’re at 40th and Keeler. This guy uh is walking away from us and he’s got a knife in his hand.” Approximately 30 seconds later, a dispatcher stated, “815R looking for a taser.” See OEMC Documents and CDs; see also *OIG 15-0564 003691, 3228*.

¹⁶ *OIG 15-0564 000620*.

which was a more populated area. McDonald then swung his arm and popped 815R's right front tire with his knife. McElligott was toward the back of 815R when McDonald popped its tire. After McDonald took a step back from the vehicle, Gaffney pulled up further in front of him to stop him from proceeding to Pulaski. McDonald then hit the right side of 815R's windshield once with the knife in his right hand. The windshield did not break but, according to Gaffney, McDonald hit it as hard as he could. McDonald walked around the front of 815R and continued eastward on 40th Street. After McDonald had walked 10 to 15 feet, another squad car turned off of Pulaski onto 40th Street with its lights on, and McDonald began to sprint. McElligott followed McDonald on foot, and Gaffney followed McDonald in 815R. McDonald ran eastbound through a parking lot of a Burger King located at 40th and Pulaski and then headed southbound on Pulaski. Video footage from several cameras captured McDonald's movements as he reached Pulaski.

3. Summary of the Relevant Video Footage

The below table contains a summary of the relevant video footage of the McDonald shooting, which includes the dashcam videos from 813R (the vehicle in which Mondragon was the driver), 823R, and 845R, video from the "WNE fire exit" security camera from the Greater Chicago Food Depository, which is bordered by 40th Street to the north, Karlov Avenue to the east, and Keeler Avenue to the west, and the security camera video from the Dunkin' Donuts, located at 4113 South Pulaski Road (the DD Camera).¹⁷

Time	Event(s) Captured	Source of Video
9:53:17 – 9:54:42	McDonald walks eastbound on the south side sidewalk of 40th Street; a CPD SUV travels east on 40th Street, parallel to McDonald with its front bumper even with McDonald; an officer on foot trails directly behind McDonald by the length of the SUV, with his flashlight trained on McDonald. ¹⁸	Greater Chicago Food Depository Security Camera
9:56:53 – 9:57:01	813R and 845R turn left onto 40th Street from Pulaski.	813R Dashcam
9:57:01 – 9:57:09	An unidentified person on 40th Street points the CPD vehicles toward the Burger King parking lot (813R); 845R turns into the parking lot (813R). McDonald runs	813R Dashcam; 845R Dashcam

¹⁷ In addition to the videos cited in the summary, OIG obtained video footage from the security camera videos at Burger King and Focal Point, and the dash camera videos from Vehicles 815R and 821R. These videos do not contain footage relevant to this report.

¹⁸ OIG confirmed the vehicle is 815R and the officer on foot is McElligott by comparing the video with photographs of the officers. OIG 15-0564 003356.

	southeast through the Burger King parking lot out onto Pulaski (845R).	
9:57:09 – 9:57:20	845R drives over the curb and sidewalk north of Burger King and heads south on Pulaski (845R); 813R turns around, turns right onto 40th Street, and then right again on Pulaski (813R); McDonald runs southbound in the middle of Pulaski and enters the intersection of 41st Street and Pulaski (813R).	813R Dashcam; 845R Dashcam
9:57:20 – 9:57:25	845R, which is facing east/southeast on Pulaski just north of 41st street, turns right behind McDonald and proceeds south on Pulaski on the east side of the street; 845R's passenger door briefly opens and then closes as it passes McDonald on his left; McDonald continues southbound on Pulaski, toward 822, which is stopped in the middle of Pulaski facing north.	813R Dashcam
9:57:25 – 9:57:28	McDonald slows as he approaches 822, touches his hands to his waist, and then, before Walsh and Van Dyke exit 845R and with 822 situated between McDonald and the officers, McDonald extends his right arm fully to his right—the video shows that he has a silver object in his right hand; 845R passes 822 and comes to a stop on the east side of Pulaski, facing south and almost directly south of 822; Van Dyke opens 845R's passenger door.	813R Dashcam
9:57:28 – 9:57:30	McDonald changes course and begins walking southwest on Pulaski, away from 822 and 845R (813R); Van Dyke exits the passenger side of 845R with both of his feet in Pulaski's northbound left turn lane, his gun drawn and pointed at McDonald (813R). Walsh exits the driver side of 845R, just east of Pulaski's northbound left turn lane, with his gun drawn, and moves north along the driver side of 845R until he is several feet north of 845R (DD Camera).	813R Dashcam; DD Camera ¹⁹
9:57:30 – 9:57:33	McDonald continues to walk southwest, from the middle of Pulaski to the lane markers that divide the west side of the road (or approximately one lane west of where	813R Dashcam; DD Camera

¹⁹ The DD Camera video does not display an embedded timestamp. Therefore, OIG used the timestamp of 813R's video, which generally captured the same events as the DD Camera from a different angle, to establish the timeframe of the events captured by the DD Camera.

	<p>McDonald was prior to changing course) (813R). While McDonald walks southwest, Walsh begins moving sideways in a west/southwest direction, approximately parallel to McDonald, and crosses over the east side of Pulaski's northbound left-turn lane—his gun is pointed at McDonald (813R; DD Camera). Van Dyke takes approximately two steps northwest toward McDonald, with his left foot crossing into Pulaski's yellow-painted median strip—his gun is pointed at McDonald (813R; DD Camera). 822 drives north on Pulaski, away from 845R (813R).</p>	
<p>9:57:33 – 9:57:36</p>	<p>As McDonald approaches the lane markers on the west side of Pulaski, walking in a southwest direction, he looks to his right and moves his right hand behind his waist, near the right side of his lower back, then brings his hand back to his right side (813R). As McDonald crosses the lane markers on the west side of Pulaski, he looks to his left, and takes a step southbound (813R). Meanwhile, Walsh continues moving west/southwest with his gun pointed at McDonald, ultimately traversing almost the entire width of Pulaski's northbound left-turn lane (813R; DD Camera). Van Dyke takes an additional step west, toward McDonald, putting both of his feet in Pulaski's median strip and placing himself almost directly between McDonald and Walsh (813R; DD Camera). McDonald is then apparently shot and Walsh stops moving and adopts a stance, with his feet more than a shoulder's width apart (813R; DD Camera).</p>	<p>813R Dashcam; DD Camera</p>
<p>9:57:36 – 9:57:54</p>	<p>McDonald spins between 180 and 270 degrees in a clockwise direction and then falls to the ground with the top of his head pointing south on Pulaski, approximately one street lane east of Van Dyke and just south of Van Dyke (813R). As McDonald falls to the ground, Van Dyke takes another step west toward McDonald, moving his right foot from Pulaski's median strip into the southbound side of Pulaski; his gun remains pointed at McDonald (813R). Van Dyke subsequently takes an additional step or two south, toward McDonald. Other than those steps, Van Dyke's feet are stationary (DD Camera). After McDonald is on the ground, his legs and feet do not move (813R). McDonald's upper body makes small, intermittent movements as what appear to be puffs</p>	<p>813R Dashcam; DD Camera</p>

	of smoke rise from McDonald's body (813R). ²⁰	
9:57:54 – 9:58:05	An officer approaches McDonald and kicks the knife from his hand. McDonald does not make any noticeable movements.	813R Dashcam
9:58:05- 9:58:20	McDonald lies on the ground; no aid is rendered by CPD personnel. 823R, travelling northbound, pulls up on the west side of Pulaski, and stops just south of where McDonald is lying.	813R Dashcam; 823R Dashcam
9:58:20- 9:58:57	Several CPD officers walk and stand near McDonald as he lies on the ground; no aid is rendered by CPD personnel.	813R Dashcam; ²¹ 823R Dashcam
9:58:57- 9:59:02	823R begins making a U-turn on Pulaski. A Cook County Sheriff's Police Department (CCSPD) officer puts on blue gloves and walks toward McDonald. ²² McDonald is no longer visible in the video frame.	823R Dashcam

4. CCSPD Officer Accounts of the October 20, 2014 McDonald Shooting²³

While on patrol on October 20, 2014, CCSPD Officers Adam Murphy and Jeff Pasqua observed several CPD police vehicles pass by them. Both officers decided to follow the CPD vehicles. When they arrived at the scene, several CPD vehicles were already present—Pasqua estimated it was five or six. McDonald was lying on the pavement “gasping for his last breath of air.” Pasqua OIG Tr. 11:22-23. Meanwhile, the CPD officers were “standing around” and talking to each other. Murphy OIG Tr. 11:1. Murphy noted the CPD officers did not respond to him when he asked if they needed assistance. Murphy stated:

I see there's blood all over the pavement. [McDonald] was kind of gurgling when he was sitting there. I remember his mouth was going open and closed like he was trying to gasp for air. And I looked for everybody else, and they were kind of standing there. I just started taking my gloves—my rubber gloves out to check for a pulse and to see if I could render aid.

²⁰ OEMC records show that dispatch received notice to send an ambulance to the scene at 9:57:51. OIG 15-0564 003691.

²¹ The last time stamp visible on the 813R dashcam video is 9:58:55.

²² OIG identified the CCSPD officer as Officer Adam Murphy.

²³ The following CCSPD Officer accounts are taken from OIG's June 23, 2016 interview of Jeff Pasqua and its June 24, 2015 interview of Adam Murphy. Pasqua and Murphy are currently CCSPD investigators.

Murphy OIG Tr. 12:18-13:2. He heard someone say an ambulance was en route.²⁴ Both Officers Murphy and Pasqua recalled then watching McDonald take his final breaths.²⁵ It was “[m]aybe less than a minute before [McDonald] expired.” Murphy OIG Tr. 14:15-16. At no time did any CPD officers attempt to provide aid or comfort McDonald—Murphy stated, “That’s why I felt that I needed to go up to him.” Murphy OIG Tr. 14:11-12.

After McDonald passed away, Murphy got up from beside him and noticed the shooting officer, who he now knows to be Van Dyke, “pacing back and forth in front of his car.” Murphy OIG Tr. 15:7-8. Murphy approached him and told him to sit down and drink water. As he was speaking with Van Dyke, Murphy “heard several officers telling [Van Dyke] to call your union rep, call your union rep.” Murphy OIG Tr. 15:16-17.

Murphy and Pasqua departed after approximately ten minutes on the scene when a CPD sergeant told them CPD did not need their assistance. At the time they left, there was “[a] sea of CPD” on scene. Murphy OIG Tr. 38:3; Pasqua OIG Tr. 25:7-8.

C. CPD’s Reports Regarding the McDonald Investigation

1. Case Supplementary Report, “Sup ID” 10992767 CASR301²⁶

On March 15, 2015, Detective March submitted a case supplementary report under RD #HX-475653 with “Sup ID” 10992767 CASR301 (the 301 CSR).²⁷ The report is titled as a “Field Investigation Exc. Cleared Closed (Other Exceptional) Report.” It lists the original and last “Offense Classification” as “Assault/Aggravated Po: Knife/Cut Instr.,” the “Date of Occurrence” as October 20, 2014, at 9:57 p.m., and the “Address of Occurrence” as 4112 S. Pulaski Rd. Further, it lists Van Dyke, Walsh, Gaffney, and McElligott as the victims, McDonald as the offender, March as the reporting officer and primary detective assigned, and Wojcik as the

²⁴ In a January 22, 2016 OIG interview, CPD Area North Commander Kevin Duffin stated CPD police officers have a duty to render aid to injured civilians per general orders. Police officers render aid by calling dispatch and requesting that an ambulance be dispatched to the scene. According to Duffin, police officers are not required or expected to provide any more assistance than this. On March 30, 2016, CPD issued General Order G03-06 which requires that the involved member(s) “request medical attention for the injured, and also offer immediate medical aid commensurate with their training, experience, and available equipment.”

²⁵ The Medical Examiner’s Case Report states McDonald was pronounced dead “on view” at Mount Sinai Medical Center on October 20, 2014, at 10:42 p.m. OIG 15-0564 015029.

²⁶ OIG 15-0564 003057-79.

²⁷ CPD reported its investigation of the events that culminated in the McDonald shooting under record number HX-475653, and classified most of the reports as an investigation into an aggravated assault in which McDonald was the offender. In a few reports, CPD classified the case as an investigation into a justifiable homicide of which McDonald was the victim. CPD also created an additional record number, HX-486155, which it classified as a justifiable homicide.

approving supervisor. It is signed as the “report of” March, Gallagher, and Wojcik of the Bureau of Detectives – Area Central. Wojcik approved the CSR on March 16, 2015.²⁸

The CSR contains, among other information, summaries of the interviews March conducted of the officers who were present when Van Dyke shot McDonald, as well as summaries of the interviews CPD detectives conducted of civilian witnesses to the events of October 20, 2014.

a) Officer Statement Summaries

(1) Van Dyke

The 301 CSR includes summaries of the statements that Van Dyke provided to March on October 20, 2014, and October 21, 2014, respectively. The following is an excerpt of Van Dyke’s October 20, 2014 statement:

Officer Van Dyke exited the vehicle on the right side and drew his handgun. As Van Dyke stood in the street on Pulaski, facing northbound, toward McDonald, McDonald approached southbound. McDonald was holding the knife in his right hand, in an underhand grip, with the blade pointed forward. He was swinging the knife in an aggressive, exaggerated manner. Van Dyke ordered McDonald to “Drop the knife!” multiple times. McDonald ignored Van Dyke’s verbal direction to drop the knife and continued to advance toward Van Dyke.

When McDonald got to within 10 to 15 feet of Officer Van Dyke, McDonald looked toward Van Dyke. McDonald raised the knife across his chest and over his shoulder, pointing the knife at Van Dyke. Van Dyke believed McDonald was attacking Van Dyke with the knife, and attempting to kill Van Dyke. In defense of his life, Van Dyke backpedaled and fired his handgun at McDonald, to stop the attack. McDonald fell to the ground but continued to move and continued to grasp the knife, refusing to let go of it. Van Dyke continued to fire his weapon at McDonald as McDonald was on the ground, as McDonald appeared to be attempting to get up, all the while continuing to point the knife at Van Dyke. The slide on Van Dyke’s pistol locked in the rearward position, indicating the weapon

²⁸ On March 16, 2015, hours after Wojcik approved the CSR, Lieutenant Osvaldo Valdez sent an email to Wojcik and Gallagher, copying Roy. OIG 15-0564 015738-41. The email was part of a chain of emails between Valdez and the FBI, and stated as follows:

All[,] See attached spread sheet that was provided by the FBI. It is regarding L[aw]E[nforcement]O[fficer]’s killed or assaulted and injured in the line of duty in which offenders used a knife/other cutting instrument. After a quick review of the report there were a couple things that stood out. These are incidents where an officer is assaulted and injured or killed by an assailant with a knife between the years of 2004 – 2013. 1. Out [of] 382 incidents, there are 2 incidents that resulted in the officer being killed. Interesting to note would be to determine what the distance between the offenders and the officers were as the shots were fired that resulted in fatality. 2. There are only 32 incidents where assisting officer shot there [sic] weapon as well. This was a question that was brought up, ‘why didn’t the other officers shoot?’ I will ask if I can get more details.

was empty. Van Dyke performed a tactical reload of his pistol with a new magazine and then assessed the situation.

McDonald was no longer moving and the threat had been mitigated, so Officer Van Dyke and Officer Walsh approached McDonald. McDonald was still holding the knife in his right hand. Van Dyke continued to order McDonald to “Drop the knife!” Officer Walsh told Van Dyke, “I have this.” Van Dyke then used his handgun to cover Walsh as Walsh walked up and forcibly kicked the knife out of McDonald’s right hand, thereby eliminating the threat to the officers.

The 301 CSR summarized Van Dyke’s October 21, 2014 statement in relevant part as follows:

[Van Dyke] related the same sequence of events as documented in his original interview at the scene of the incident.

Van Dyke additionally articulated the reasoning behind his decision to use deadly force against the offender in this incident, Laquan McDonald. Van Dyke was aware of the radio transmissions from Officer Thomas Gaffney, on Beat 815R, that McDonald was armed with a knife. Van Dyke was aware that McDonald had attacked the officers on Beat 815R by slashing the tire of their police vehicle.

As he confronted McDonald at 4112 South Pulaski Road, Van Dyke saw that McDonald was in fact, armed with a knife, a deadly weapon. Van Dyke was aware of the widely accepted teaching in law enforcement that an assailant armed with a knife was considered a deadly threat, if within 21 feet, because it was possible for such an assailant to close that distance and attack with the knife before a defensive shot could be fired from a handgun. Van Dyke was also aware of the existence of throwing knives, which can be thrown from a distance, as well as spring loaded knives, which propel a blade through the air from the knife handle. Van Dyke also said he recalled a previously issued Chicago Police Department bulletin warning of a weapon which appeared to be a knife but which actually was capable of firing a bullet, making it a firearm.²⁹

(2) Walsh

The following is an excerpt of Walsh’s October 20, 2014 statement:

As McDonald ran southbound on Pulaski Road, from the Burger King, Walsh pursued McDonald in the police vehicle. Walsh drove southbound in the northbound lanes to get ahead of McDonald, keeping the police vehicle between

²⁹ The CSR notes that a search was subsequently conducted for the bulletin Van Dyke referenced and that an “Officer Safety Alert number 2012-OSA0297,” issued on December 4, 2012, was located. See OIG 15-0564 003074. March wrote that “[i]t was a warning regarding a ‘revolver knife’ which was capable of firing .22 caliber cartridges.”

McDonald and a Dunkin' Donuts restaurant, on the east side of Pulaski. As their vehicle passed McDonald, Officer Van Dyke opened the right front door of their vehicle, to exit the truck and confront McDonald. Walsh, realizing that at this point they were too close to the armed McDonald to safely exit the vehicle, told Van Dyke to wait until they got further ahead of McDonald. Walsh drove further south on Pulaski. He stopped his vehicle south of McDonald and exited the driver's door as Van Dyke exited the right side of the vehicle. Walsh drew his handgun when he exited the vehicle.

Officer Walsh came around the rear of the police vehicle and joined Officer Van Dyke on the right side of the vehicle. Walsh also stood in the street on Pulaski, facing northbound, as McDonald walked southbound toward the officers. Walsh ordered McDonald to "Drop the knife!" multiple times as McDonald approached the officers.

Officer Walsh also backed up, attempting to maintain a safe distance between himself and McDonald. McDonald ignored the verbal direction given by both Walsh and Officer Van Dyke, and continued to advance toward the officers. When McDonald got to within 12 to 15 feet of the officers he swung the knife toward the officers in an aggressive manner. Van Dyke opened fire with his handgun and McDonald fell to the ground. Van Dyke continued firing his weapon at McDonald as McDonald continued moving on the ground, attempting to get up, while still armed with the knife.

When the gunfire stopped and McDonald was not moving anymore, Walsh approached McDonald with Van Dyke. Walsh continued to order McDonald to "Drop the knife!" multiple times, as McDonald was still holding the knife in his right hand. Walsh forcibly kicked the knife out of McDonald's hand and then notified the dispatcher on the police radio that shots had been fired by the police. An ambulance was also requested for McDonald.

As they waited for the ambulance to respond to the scene, Officer Walsh told McDonald to 'hang in there,' and that an ambulance was on the way.

Officer Walsh said he believed McDonald was attacking Walsh and Officer Van Dyke with the knife and attempting to kill them when the shots were fired. Walsh stated he did not fire his handgun because Van Dyke was in the line of fire between Walsh and McDonald. Walsh thought Van Dyke fired eight or nine shots total.³⁰

³⁰ Detective March completed a GPR relating to his interview of Walsh that contains March's handwritten notes of the interview. OIG 15-0564 003242-43. March's handwritten notes of the interview do not differ in any significant way from the summary of Walsh's statement in the CSR.

(3) Fontaine

The 301 CSR summarizes Fontaine's October 20, 2014 statement in relevant part as follows:

The two officers responded to the request for assistance made by Beat 815R, regarding a man with a knife at 41st Street and Pulaski Road. Officer Viramontes drove northbound on Pulaski. When they arrived at the scene of this incident, in front of the Dunkin' Donuts restaurant, Officer Fontaine saw a black male subject, now known as Laquan McDonald, walking southbound in the street, with a knife in his right hand. McDonald was walking sideways, with his body facing east, toward Officers Jason Van Dyke and Joseph Walsh. These two officers were standing in the middle of the street, on the right side of their police vehicle, which was facing southbound. Fontaine heard the officers repeatedly order McDonald to "Drop the knife!" McDonald ignored the verbal direction and instead, raised his right arm toward Officer Van Dyke, as if attacking Van Dyke. At this time Van Dyke fired multiple shots from his handgun, until McDonald fell to the ground and stopped moving his right arm and hand, which still grasped the knife. The gunshots were rapid fire, without pause. Officer Walsh then kicked the knife out of McDonald's hand.³¹

(4) Viramontes

The 301 CSR summarizes Viramontes's October 20, 2014 statement in relevant part as follows:

[W]hen [Viramontes] exited his police vehicle, at the scene, he observed a black male subject, now known as Laquan McDonald, walking southbound on Pulaski Road, in the middle of the street, holding a knife in his right hand. Viramontes heard Officer Jason Van Dyke repeatedly order McDonald to "Drop the Knife!" McDonald ignored the verbal direction and turned toward Van Dyke and his partner, Officer Joseph Walsh. At this time Van Dyke fired multiple shots from his handgun. McDonald fell to the ground but continued to move, attempting to get back up, with the knife still in his hand. Van Dyke fired his weapon at McDonald continuously, until McDonald was no longer moving.³²

(5) Sebastian

The 301 CSR summarizes Sebastian's October 20, 2014 statement in relevant part as follows:

³¹ Detective March completed a GPR relating to his interview of Fontaine that contains March's handwritten notes of the interview. OIG 15-0564 003252. March's handwritten notes of the interview do not differ in any significant way from the summary of Fontaine's statement in the CSR.

³² Detective March completed a GPR relating to his interview of Viramontes that contains March's handwritten notes of the interview. OIG 15-0564 003253. March's handwritten notes of the interview do not differ in any significant way from the summary of Viramontes's statement in the CSR.

Officer Sebastian observed a black male subject, now known as Laquan McDonald, running southeast bound through the parking lot of the Burger King restaurant. Beat 845R pursued McDonald in their police vehicle, through the parking lot, toward Pulaski. Sebastian told Officer Mondragon to drive back out onto Pulaski to assist in the pursuit. McDonald ran out onto Pulaski and continued to run southbound down the middle of the street. Beat 845R pursued McDonald in their vehicle, southbound on Pulaski, followed by Beat 813R. As McDonald ran southbound on Pulaski, Sebastian saw the knife in his right hand. McDonald was waving the knife.

Beat 845R stopped their vehicle ahead of McDonald, between McDonald and the Dunkin' Donuts restaurant on the east side of Pulaski. Officers Joseph Walsh and Jason Van Dyke exited their vehicle and drew their handguns. McDonald turned toward the two officers and continued to wave the knife. Sebastian heard the officers repeatedly order McDonald to "Drop the knife!" McDonald ignored the verbal directions and continued to advance on the officers, waving the knife. Officer Sebastian heard multiple gunshots and McDonald fell to the ground, where he continued to move. Sebastian did not know who fired the shots, which were fired in one continuous group. She then saw Officer Walsh kick the knife out of McDonald's hand.³³

(6) Mondragon

The 301 CSR summarizes Mondragon's October 20, 2014 statement in relevant part as follows:

[Mondragon] stated she was a Chicago Police Officer assigned to the 008th District. Mondragon related the same facts as her partner, Officer Daphne Sebastian.

Officer Mondragon added that as she drove westbound on 40th Street, she saw Officer McElligott running eastbound through the Burger King parking lot. She made a U-Turn and drove back out onto Pulaski Road. Mondragon turned southbound onto Pulaski. She saw Laquan McDonald running southbound on Pulaski, in the middle of the street. As she got closer she could see McDonald was holding a knife in his right hand. He was waving the knife.

Officer Mondragon saw Officers Joseph Walsh and Jason Van Dyke outside of their police vehicle. She heard the officers repeatedly ordering McDonald to "Drop the knife!" as McDonald got closer and closer to the officers, continuing to wave the knife. As she was placing her vehicle transmission into Park, Mondragon looked down and heard multiple, continuous gunshots, without pause.

³³ Detective March completed a GPR relating to his interview of Sebastian that contains March's handwritten notes of the interview. OIG 15-0564 003248. March's handwritten notes of the interview do not differ in any significant way from the summary of Sebastian's statement in the CSR.

Mondragon then saw McDonald fall to the ground. Mondragon did not know who fired the shots.³⁴

b) The 301 CSR Findings and Conclusions

The 301 CSR includes several findings and conclusions regarding the shooting. Specifically, it states that “[t]he recovered in-car camera video from Beats 845R and 813R was viewed and found to be consistent with the accounts of all of the witnesses.” OIG 15-0564 003075. It further states:

The above to-date investigation determined that Laquan McDonald was an active assailant who, while armed with a dangerous weapon, used force likely to cause death or serious injury to a private citizen when he attacked Rudy Barillas; threatened the imminent use of force likely to cause death or serious injury when he incised the tire and stabbed the windshield of a Chicago Police Department vehicle occupied by Officer Thomas Gaffney; and initiated imminent use of force likely to cause death or serious injury when he initiated an attack on Officers Jason Van Dyke and Joseph Walsh. The above investigation concluded that Officer Jason Van Dyke’s use of deadly force, the discharging of his duty firearm, was within the bounds of the Chicago Police Department’s use of force guidelines, and in conformity with local ordinances and state law.

OIG 15-0564 003078.

2. The 339 CSR’s Narrative and Findings

On March 15, 2015, March submitted a second CSR with Sup ID 10988891 CSR339 (the 339 CSR).³⁵ The 339 CSR contains, among other information, an inventory of the evidence recovered and an identification of the personnel assigned to the case and the witnesses to the relevant events. Like the 301 CSR, the 339 CSR lists Van Dyke, Walsh, Gaffney, and McElligott as the victims, McDonald as the offender, March as the reporting officer and primary detective assigned, and Wojcik as the approving supervisor. It is signed as the “report of” March, Gallagher, and Wojcik of the Bureau of Detectives – Area Central. Wojcik approved the 339 CSR on March 16, 2015. The “Manner/Motive” section of the 339 CSR states as follows:

Laquan McDonald was shot and killed by Chicago Police Officer Jason Van Dyke while McDonald was committing an aggravated assault with a knife against Officer Van Dyke and his partner, Chicago Police Officer Joseph Walsh. McDonald also committed an aggravated assault with a knife against Chicago Police Officers Thomas Gaffney and Joseph McElligott, when McDonald stabbed the right front tire and windshield of their police vehicle, and an aggravated

³⁴ Detective March completed a GPR relating to his interview of Mondragon that contains March’s handwritten notes of the interview. OIG 15-0564 003249. March’s handwritten notes of the interview do not differ in any significant way from the summary of Mondragon’s statement in the CSR.

assault with a knife against civilian, Rudy Barillas, immediately prior to being confronted by Officers Van Dyke and Walsh. / Peace officer interceding in a felony, in the line of duty-Defense of life (Offender apparently attempting to defeat arrest).³⁶

The “Just Homicide Description” section of the 339 CSR states: “Criminal Killed By Police Officer.”³⁷ The “Additional Just Homicide Descr.” section of the 339 CSR states: “Criminal Attacked Officer That Officer Killed Criminal.”

3. Major Incident Notification Detail³⁸

On October 21, 2014, at 4:05 a.m., Gallagher completed a Major Incident Notification Detail (MIN) under RD #HX-475653 regarding the events of October 20, 2014. The MIN lists the “Crime/Incident” at issue as an aggravated assault on a police officer with a “Knife/Cut Instr.” The MIN identifies Gaffney, Walsh, and Van Dyke as victims, and McDonald as the offender. The narrative portion of the MIN states as follows:

Beat 815R responded to an OEMC call of a holding an offender [sic] who was breaking into trailers at 4100 S. Kildare. Beat 815R arrived on scene and spoke to the complainant who pointed to the offender who had fled on foot. Beat 815R pursued the offender in their marked vehicle to 4000 S. Karlov, at which time the offender who was acting irrational and was armed with a knife, punctured their front passenger tire, and then struck the windshield with his knife. Beat 815R requested a taser and additional units to respond and assist with the apprehension of the offender. Beat 845R responded to 4112 S. Pulaski and observed the offender still armed with a knife walking in traffic. Beat 845R exited their vehicle and ordered the offender to drop his knife. The offender refused all verbal commands and continued to approach the officers while still armed with his knife. Beat 845R fearing for his life discharged his weapon. The offender sustained numerous gun shot [sic] wounds and was transported to Mt. Sinai Hospital where he was subsequently pronounced at 2242 hours.

4. HX-486155 Case Incident Report³⁹

On October 29, 2014, March submitted an Original Case Incident Report under RD #HX-486155, with the event number of 1430116812 and the “Case ID” of 9837884 CASR229. The report identifies March as the Reporting Officer and Detective/Investigator, and Gallagher as the

³⁵ OIG 15-0564 003034-56.

³⁶ OIG 15-0564 003047-48.

³⁷ OIG 15-0564 003036.

³⁸ OIG 15-0564 003009-10.

³⁹ OIG 15-0564 003299-300.

Approving Supervisor. The report classifies the incident as “Assault – Aggravated; Knife/Cutting Instr,” and lists the “Occurrence Location” as 4101 S. Kildare Blvd. and the “Occurrence Date” as October 20, 2014, at 9:47 p.m. The report identifies Rudy Barillas as the victim, Gaffney, Van Dyke, and Walsh as additional victims, and McDonald as “Suspect # 1.” The narrative section of the report states as follows:

The offender in this incident, Laquan McDonald, committed an aggravated assault against the victim, Rudy Barillas, by attempting to cut Barillas with a knife. Barillas called 9-1-1. Chicago Police Officers Thomas Gaffney, Jason Van Dyke and Joseph Walsh responded to Barillas’ call. McDonald committed aggravated assaults against the three officers, finally forcing Officer Van Dyke, in defense of his life, to shoot and kill McDonald. Details of this investigation are reported under the Homicide/Justifiable, recorded under Records Division number HX475653.

D. OIG’s Interview of Valdez

On July 12, 2016, OIG investigators interviewed Valdez under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. Valdez’s attorneys, Laura Morask and Dean Morask, were also present for the interview. In summary, Valdez stated as follows regarding the meetings he attended with Roy concerning the McDonald investigation.

On or around November 1, 2015, Valdez attended a meeting with Roy, Deputy Chief David McNaughton, then Deputy Chief Eddie Johnson, and then Chief of Patrol Division Wayne Gulliford, to brief Gulliford regarding the McDonald shooting. Roy asked Valdez to attend the meeting. When asked about the purpose of the meeting, Valdez said “[t]hey wanted to review the video and understand that 16 shots was justified.” Valdez OIG Tr. 94:13-14. Valdez said that “because of the number of shots that Officer Van Dyke shot on October 20th, there was, you know, news reports, all kinds of stuff that he – it was excessive” Valdez OIG Tr. 93:23-94:2.

McNaughton led the meeting, but Valdez did not remember exactly what he said. After they watched the video, Gulliford “said something about he has to go and brief the superintendent as to this is how Jason Van Dyke was trained.” Valdez OIG Tr. 97:23-98:1. Everyone in the meeting agreed the shooting was justified and that Van Dyke “used the force necessary to eliminate the threat.” Valdez OIG Tr. 99:8-9.

Valdez later spoke to Roy, Gallagher, and probably March regarding the meeting. When asked what he said to those individuals, Valdez responded: “I said that here is what happened, showed the video, everyone agreed that Jason Van Dyke used the force necessary to eliminate the threat and that was how Jason Van Dyke was trained and that Chief Gulliford was going to tell the superintendent that that was how Van Dyke was trained.” Valdez OIG Tr. 101:22-102:5. Valdez added: “I said no one expressed any other concerns or contradictions to what has already been determined as far as the shooting.” Valdez OIG Tr. 102:11-13.

On March 8, 2015, Roy asked Valdez to attend a meeting at Area Central with him, March, Gallagher, and Wojcik. During that meeting, Roy directed that March, Gallagher, and Wojcik finish the CSR and told them to be ready for a meeting the next day with Ralph Price, CPD's General Counsel, and Tom Platt from the City's Department of Law. Ultimately, only Roy and Valdez met with Price and Platt on March 9. They showed Price and Platt the 813R video, and, Valdez said, "it was very apparent that they were not concerned with the 'justification,' the details of the investigation." Valdez OIG Tr. 120:9-12. Valdez explained: "It was deemed a justified shooting but [sic] the detective, the sergeant, the lieutenant, the commander, and all the way up the chain of command, and it was, as I said, that meeting it was very apparent that it was not about determining whether the shooting was justified. It was determining how the video would jeopardize anything." Valdez OIG Tr. 123:19-124:2.

Valdez and Roy subsequently related to March, Gallagher, and Wojcik what happened at the meeting. They "told them that it appears that this meeting was about how the video would be perceived if released, and I think I might have said they weren't concerned with whether it was justified or not." Valdez OIG Tr. 129:20-24.

E. OIG's Interview of Gallagher

On June 8, 2016, OIG investigators interviewed Gallagher under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. Gallagher's attorney, Thomas Needham, was also present for the interview. In summary, Gallagher stated as follows regarding Roy's participation in CPD's investigation of the events of October 20, 2014.

On October 20, 2014, Gallagher had in-person communications with Roy while at the scene of the shooting. Among other information, Gallagher relayed to Roy the narratives that the witness officers provided to CPD. Roy was also present at Area Central later that evening, but Gallagher did not recall any specific conversations with him.

Within two or three days of the shooting, Roy requested that Detective Richard Hagen "compile a compilation of all the video that was collected" of the incident, and then Roy made a presentation at an executive management meeting. Gallagher OIG Tr. 113:14-15. After the meeting, Roy told Gallagher that the meeting participants saw the video of the shooting, and "there were no issues with it." Gallagher OIG Tr. 114:7.

During the course of the investigation, Gallagher continued to have communications with Roy regarding the investigation, "if something new came up." Gallagher OIG Tr. 119:13.

Approximately one month after Van Dyke was stripped of his police powers, Gallagher and others started hearing that "officers were getting called down to the grand jury at 26th Street."⁴⁰

⁴⁰ Van Dyke was relieved of his police powers on October 29, 2014.

Gallagher OIG Tr. 98:2-3. At that point, the investigation was put on hold while the investigative team waited for an explanation as to what was taking place at 26th Street.

Then, in early March 2015 while the investigation was still on hold, Gallagher was told that the City's Department of Law was having a meeting regarding the case and that they wanted to meet with the investigative team. Roy requested a meeting, and Wojcik, Valdez, March, Gallagher, Hagen, and Roy met at Area Central to "go over the facts of the case." Gallagher OIG Tr. 99:1. Gallagher said that "everyone just related what they knew about the investigation." Gallagher OIG Tr. 121:1-2

The next day Roy and Valdez met with two attorneys from the Department of Law regarding the case. Following that meeting, Roy ordered Wojcik to complete the reports relating to CPD's October 20, 2014 encounter with McDonald. Aside from that order, Gallagher did not recall Roy giving any specific directives regarding the investigation.

F. OIG's Interview of March

On April 26, April 27, and July 25 of 2016, OIG investigators interviewed March under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. March's attorney, James McKay, was present for the interview. In summary, March stated as follows regarding Roy's participation in CPD's investigation of the events of October 20, 2014.

On October 20, 2014, Roy responded to the scene following the McDonald shooting, but March did not have much contact with him. March believed Roy "was briefed on everything from other supervisory personnel at the scene." March 4/26/16 Tr. 82:8-9.

During the course of CPD's investigation, March had "multiple face-to-face conversations" with Roy regarding the investigation. March 4/26/16 OIG Tr. 257:6-7. March explained: "Most of the time it was him coming to me because maybe he had been asked a question from higher up the chain of command or an issue came to the Department so they were trying to get more background information. So he would come to me with maybe a specific question about something, and then we would talk at length about the other aspects of the investigation." March 4/26/16 OIG Tr. 257:11-19. According to March, there were also multiple meetings involving March and some combination of the following individuals: Hagen, Gallagher, Wojcik, Valdez, and Roy. March stated that "[a]t some of those meetings, we actually played the video again and reviewed to get, you know, everyone's – weigh in with their opinion. And everyone was in agreement with the investigation and the conclusions reached as documented" in the reports. March 4/27/16 OIG Tr. 72:8-13.

In January 2015, March and Wojcik learned that the Cook County State's Attorney's Office and the FBI were sending subpoenas to police officers with involvement in the McDonald shooting. As a result, Wojcik told March to "hold off on doing anything" until they got some answers from

their chain of command regarding the additional investigation. March 4/26/16 OIG Tr. 251:19. The investigation was put on hold from the beginning of January to the beginning of March.

In March, around the time the City was negotiating a settlement with McDonald's family, Roy ordered that the investigative reports be completed right away. Roy gave that order to Wojcik and Wojcik communicated it to March. March believed that directive was prompted by the legal settlement.

Upon receiving the order, March created the original draft of the 301 CSR, and then Gallagher and Wojcik reviewed it. Wojcik, Gallagher, and March also had in-person meetings regarding the findings in the 301 CSR. All three were in agreement that the witness accounts were consistent with the videos of the shooting. No one other than Wojcik, Gallagher, or March reviewed the 301 CSR prior to Wojcik's final approval.

When asked whether anyone else was involved in reaching the conclusions contained in the CSR findings, March responded: "Valdez and Roy both personally told us that they agreed with our conclusions, and they told us that, based on the two different briefings that they each conducted at executive management meetings, as far as they were aware, every – as far as they were aware, everyone in the command staff was in agreement." March 4/26/16 OIG Tr. 263:13-19. March's understanding was that "they were all agreeing with the one basic conclusion . . . that the video was consistent with what all the officers were saying, and that the use of force, the way the incident – the actions of the officers were all appropriate." March 4/27/16 OIG Tr. 75:15-20.

In March 2015, March had "personal contact with Roy and Valdez, and both of them continued to indicate that they were in agreement with everything that the investigation concluded and that they were not aware of anyone in the Department expressing any opinions otherwise." March 4/26/16 OIG Tr. 265:15-20.

When asked how Roy and Valdez knew what the investigative team's findings were, March noted that "they were both present at the scene right from the beginning" and that "information flowed up the chain of command." March 4/27/16 OIG Tr. 73:7-8, 15-16. March explained: "[W]e would communicate what we had learned, whether it be from the witness statements, the evidence, this, that, the other, and people obviously would express their opinion." March 4/27/16 OIG Tr. 73:22-74:2. March later added: "During the entire investigation of this incident, I had multiple consultations with my immediate supervisors, including Sergeant Daniel Gallagher, Lieutenant Anthony Wojcik, Lieutenant Osvaldo Valdez, and [C]ommander Eugene Roy. During all of these consultations, I was repeatedly told that my interpretation and understanding of the events in this incident, as well as my conclusions, were accurate and correct." March 4/27/16 OIG Tr. 181:24-182:9. With respect to March's chain of command, March stated: "it's a reasonable expectation that they should have been aware of what was going on in this investigation." March 4/27/16 OIG Tr. 205:4-7.

G. OIG's Interview of McNaughton

On May 25, 2016, OIG investigators interviewed McNaughton under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgement of the reading of those advisements. The interview was transcribed by a certified court reporter. McNaughton's attorney, Thomas Pleines, was also present for the interview. In summary, McNaughton stated as follows regarding Roy's participation in post-shooting briefings.

On October 22, 2014, McNaughton presented a summation of the October 20, 2014 events for command staff, including Superintendent Garry McCarthy. McNaughton explained that after an officer-involved shooting, it is the responsibility of the On-Call Incident Commander (OCIC) to brief the Superintendent and other command staff in a post-shooting briefing. The briefings are usually held in conjunction with executive management meetings. Roy was also present, and McNaughton and Roy walked the command staff through "the entire investigation that we knew at that time," which included the 813R and Greater Food Depository videos. McNaughton OIG Tr. 165:23-24.

When asked what the group's response was to their presentation, McNaughton responded: "Definitely a concern, you know, with the amount of shots that were being fired. They looked – the superintendent, I think, asked some questions about the officer's background and then some general questions about the investigation with Chief Roy or and then Commander Roy, but I can't remember exactly the content of who said what, where, when, all those type of things." McNaughton OIG Tr. 171:4-12.

H. OIG's Interview of Roy

On May 23, 2016, pursuant to CPD General Order 08-01, OIG, through CPD's Bureau of Internal Affairs (BIA), served Roy with a Notification of Interview and a Notification of Allegations.

On July 6 and 7, 2016, OIG investigators interviewed Roy under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. Roy's attorneys, Laura Morask and Dean Morask, were also present for the interview. In summary, Roy stated as follows.

As of the dates of his OIG interview, Roy was assigned as Chief of CPD's Bureau of Detectives. On October 20, 2014, he was Commander of the Area Central Detective Division and reported to Deputy Chief Anthony Riccio and Chief John Escalante. In his role as Commander, Roy was "responsible for the management, oversight, and operations of the Area Central Detective Division." Roy 7/6/2016 OIG Tr. 39:2-4. His responsibilities with respect to a police shooting were to "[r]espond to the scene and ensure an investigation was conducted, provide support to the on-call Incident Commander, make sure that the investigation – any questions, any issues he had were investigated." Roy 7/6/2016 OIG Tr. 39:14-18.

During his time as Commander of Area Central's Detective Division, Roy responded to approximately 15 to 25 police-involved shootings. During his entire tenure at CPD, Roy had never been involved in a police-involved shooting, which had been determined to not be justified. Roy 7/7/2016 OIG Tr. 132:20-133:12.

1. The Scene of the Shooting

On October 20, 2014, Roy received a phone call from the Area Central homicide desk, notifying him that there had been a police-involved shooting at 40th and Pulaski. Roy responded to the scene, arriving at around 11:00 p.m. According to Roy, he was responsible for "making sure that the crime scene is being – it's been secured, it's being processed, making sure that IPRA has been notified, making sure – you know, checking on the status where are we at, did we get any additional video, do we have any video that's relevant, so forth and so on, ensuring that a technician has been requested to come out and download the in-car camera video from the squad cards that were involved in the incident." Roy 7/6/2016 OIG Tr. 56:5-14.

McDonald was no longer at the scene when Roy arrived. Roy spoke first with Gallagher, who told him, in relevant part, that:

[O]fficers had responded to a call of an attempted burglary in a trailer yard. A citizen had been confronted by an individual with a knife – swinging a knife

[McDonald] cut the tire on a squad car with the knife he was armed with. He also attempted to stab an officer who was a passenger in that car by striking the windshield or attempting to stab him through the windshield of the vehicle.

He then proceeded southbound, and at some point Officer Van Dyke arrived. Efforts to get McDonald to drop the knife, to stop were unsuccessful, and McDonald was shot as he was advancing towards Officer Van Dyke.

Roy 7/6/2016 OIG Tr. 51:10-13, 51:22-52:8. Roy then spoke with the OCIC, McNaughton, to make sure the scene was "being processed appropriately." Roy 7/6/2016 OIG Tr. 53:21-22. Roy added: "[T]his is Deputy Chief McNaughton's investigation as to the use of deadly force. My role is to interface with him to make sure that the resources of the Area Central Detective Division are available and are doing the investigative steps that he wants done so that he can review the entire circumstances surrounding the use of deadly force." Roy 7/6/2016 OIG Tr. 56:20-57:3.

Thereafter, Roy spoke with "the various sergeants and detectives that are working there, you know, ensuring that things are being done, you know." Roy 7/6/2016 OIG Tr. 56:1-4. Roy said he spoke with March and Wojcik at the scene, but could not recall the specifics of those conversations. Roy did not speak with any of the officers who had been involved in or witnessed the shooting.

When asked whether he expressed an opinion while at the scene as to whether Van Dyke's shooting was justified, Roy responded: "You know, you're dealing with a dynamic situation. Information is flowing in rapidly. It's a very dynamic situation. Again, it just would have been premature. You know, am I saying that I didn't say that? No. I'm just saying, again, due to the passage of time, I don't recall any specific conversations with anybody to that effect." Roy 7/6/2016 OIG Tr. 64:17-24.

Roy believed he retraced McDonald's route "from the truckyard where the original incident occurred" while in his department vehicle, but could not recall if anyone was with him. Roy 7/6/2016 OIG Tr. 60:2-3.

2. Area Central

Sometime after 1:00 a.m. on October 21, 2014, Roy left the scene of the shooting and drove to Area Central. When he arrived there, he "checked with Sergeant Gallagher to see about the progress of the case." Roy 7/6/2016 OIG Tr. 91:19-20. Gallagher told Roy that three civilian witnesses had been transported to Area Central from the scene of the shooting to be interviewed and that detectives were examining the smartphone of one of those witnesses. Detectives Thomas Curran and Pete Torres, who interviewed the civilian witnesses, subsequently briefed Roy as to "the substance" of those interviews. Roy 7/6/2016 OIG Tr. 109:14. The detectives also told Roy that the civilian witnesses were "becoming hostile. They didn't want to stay. They didn't want to remain any longer. At that point I said, 'Take them back to the scene.'" Roy 7/6/2016 OIG Tr. 95:13-16. Roy did not personally participate in the interviews of any witnesses at Area Central.

Roy saw video of the shooting while he was at Area Central; he was in an office on the second floor, and McNaughton and Gallagher were probably present as well. Roy saw both the 813R video of the shooting and the Dunkin' Donuts security video "a number of times" while he was at Area Central that night. Roy 7/6/2016 OIG Tr. 116:13.

3. Post-Shooting Briefings

On October 22, 2014, Roy attended a meeting at which McNaughton briefed then-Superintendent Garry McCarthy on the "facts and circumstances surrounding the shooting." Roy 7/6/2016 OIG Tr. 126:14-15. It was typical to have this sort of briefing after a police-involved shooting. During McNaughton's presentation, he showed the 813R video of the shooting.

McCarthy raised concerns "about the number of shots that had been fired." Roy 7/6/2016 OIG Tr. 131:21-22. Roy did not have any concerns about the number of shots Van Dyke fired. Roy was not aware of any subsequent briefings on the McDonald shooting in which McCarthy was involved.

On or about October 31, 2014, Roy participated in a briefing on the McDonald shooting for Chief Wayne Gulliford, CPD's then-Chief of Patrol. The meeting took place at McNaughton's suggestion, and was intended to provide Gulliford information on the shooting because he had

not been present at the October 22, 2014 meeting.⁴¹ McNaughton took the lead, and used a disk provided by Roy to show the 813R dashcam video.

After the October 22, 2014 shooting briefing, Roy told a group, which likely included March, Gallagher, and Wojcik, that “McNaughton briefed the Superintendent, and there were no questions regarding the appropriate use of deadly force.” Roy 7/6/2016 OIG Tr. 140:8-10. According to Roy, that conversation took place in November after Van Dyke was stripped of his police powers. When asked whether he considered McCarthy’s concern regarding the number of shots Van Dyke fired to be raising a question as to the appropriateness of Van Dyke’s use of force, Roy responded: “That would call for me to speculate what was on Superintendent McCarthy’s mind, and I can’t do that.” Roy 7/6/2016 OIG Tr. 141:15-17. Roy later added that he told March, Gallagher, and Wojcik in that conversation that he agreed that Van Dyke’s shooting of McDonald was lawful.

Roy further recalled that during that conversation March “was concerned that there appeared to be a disconnect between the fact that Officer Van Dyke had been stripped and, you know, the feedback that I had provided regarding the shooting briefing.” Roy 7/6/2016 OIG Tr. 144:19-22. In response to March’s concerns, Roy said that he would “look into it.” Roy 7/6/2016 OIG Tr. 145:24. Roy made some inquiries and learned that a number of officers had been interviewed by the Cook County State’s Attorney’s Office and the FBI, and that IPRA was investigating the incident.⁴²

4. The Suspension and Subsequent Completion of CPD’s Investigation

In November 2014, Roy “told Wojcik, March, and Gallagher to stand down, that IPRA had the lead on the investigation and I didn’t want them doing anything.” Roy 7/6/2016 OIG Tr. 159:6-8. Roy explained that “the investigative responsibility for the use of deadly force, in this case by Officer Van Dyke, is reserved for IPRA.” Roy 7/6/2016 OIG Tr. 102:22-24. However, Roy, when asked to provide his reasons for suspending the investigation, later stated: “Well, first of all, I’d like to note that at that point everything was pretty much done. We were just in the process of waiting for the formal protocol to come back from the Medical Examiner’s Office along with lab tests – the results of lab tests done on Laquan McDonald. All investigative avenues that I was aware of at the time had been exhausted.” Roy 7/6/2016 OIG Tr. 170:9-16. Roy denied that CPD was engaging in any investigative activities to determine whether Officer Van Dyke’s shooting was justified, and said that such activities are “reserved for IPRA. That falls under IPRA’s area of investigative authority and responsibility.” Roy 7/6/2016 OIG Tr.

⁴¹ On October 30, 2014, McNaughton sent Roy an email stating in relevant part as follows: “Gene, [w]hen you have a minute can you give me a call. I am in the office all day today. I’d like to see if we can give Chief Gulliford a run through of the Van Dyke shooting in 008 with the disc you have with the video. I am thinking since we will be down at 35th Street tomorrow for the briefing on the 9th District shooting we could go to Gulliford’s office either before or after the 1400 Hour EMM and briefing.” Roy responded that same day: “I have the disk and will bring it. I will call you in about 15 min and we can discuss those items.” OIG 15-0564 01598-99.

⁴² Roy was himself interviewed by the FBI; he did not recall the date of the interview, but said that it occurred “approximately” in 2015. Roy 7/7/2016 OIG Tr. 121:19.

105:6-8. Roy acknowledged that he first became aware of IPRA's investigation on the night of the shooting. According to Roy, CPD did not take any investigative action with respect to the McDonald investigation from December 2014 through February 2015.

In March of 2015, Roy received a "request from our general counsel that the City corporation counsel wants the reports and wants to see the video" relating to the McDonald shooting. Roy 7/6/2016 OIG Tr. 182:6-8. Roy also learned that the City's corporation counsel wanted a briefing on the case, and told March, Gallagher, and Wojcik that they needed to finish the investigative reports. Roy, along with Valdez, met with CPD general counsel and representatives from the City's Department of Law. Either Roy or Valdez gave a presentation on the McDonald shooting, and showed some video of the shooting.

5. Roy's Supervision of CPD's Investigation

During the course of CPD's investigation, Wojcik, Gallagher, and March were under Roy's general supervision. Wojcik gave Roy updates "[w]henver something came up that merited attention." Roy 7/6/2016 OIG Tr. 163:1-2. Roy said that March may have given him updates as well, but that he generally received his information regarding the case from Wojcik or Gallagher. During the investigation, Roy provided updates to Riccio and Escalante. He did not provide updates to McCarthy. He also had some conversations with Valdez about the investigation.

When asked whether as area commander he was "ultimately responsible for ensuring the McDonald investigation was conducted in accordance with CPD rules and regulations," Roy responded: "Yes." Roy 7/7/2016 OIG Tr. 106:12-16.⁴³

6. The 301 CSR

Roy believed that March drafted the 301 CSR and submitted it to Wojcik and Gallagher for comments. Roy did not play a role in the drafting of the CSR. Roy initially stated he did not discuss the findings contained in the 301 CSR with March, Gallagher, and Wojcik prior to Wojcik's approval. He later said that he "related to [March, Gallagher, and Wojcik] that there were no problems from the command structure of the police department with the shooting. If you want to take that as participating in the decision-making process, I don't know that it is. Did I sit down with the three of them and convene a meeting to review it? No." Roy 7/7/2016 OIG Tr. 51:8-15.

Roy first saw the 301 CSR on March 17, 2015. Roy was given the report so that he could provide it to CPD's general counsel. Roy did not recall who provided him the report. Roy reviewed the 301 CSR pursuant to BDSO 14-17. Roy interpreted his duties under that order to be limited to an obligation to "[m]ake sure that there are no reports missing from a file, that everything that needs to be included in the file is included. . . . I'm looking at the checklist to make sure all the case and supplementary reports are in, the crime lab and the E[vidence]

⁴³ March, in his April 26, 2016 interview stated that "[t]he follow-up investigation, [Roy] being the area commander was ultimately his responsibility." March 4/26/16 OIG Tr. 82:3-5.

T[echnician] reports, T[actical]R[esponse]R[eport]s and the I[njured]O[n]D[uty] reports, and other pertinent reports, photographs, copies of videos are included there.” Roy 7/6/2016 OIG Tr. 200:7-16. Roy acknowledged, however, that if, during the course of such a review, he encountered a “demonstrably false statement” in a report, that “would call for initiation of a C[omplaint] R[egister] number and notification of the State’s Attorney’s Office if it was a pending criminal prosecution.” Roy 7/6/2016 OIG Tr. 202:2-5. When asked whether he saw any reports or material in the investigative file on the McDonald case that caused him concern, Roy said, “No.” Roy 7/6/2016 OIG Tr. 202:18-21.

OIG investigators presented Roy with the allegation that he reviewed and approved the 301 CSR even though it falsely stated that the dashcam video footage of the incident was consistent with the accounts of all of the witnesses to the shooting. He called this allegation “[a]bsolutely false,” and stated that he “had no role in the review or approval of reports prior to their submission in the system.” Roy 7/6/2016 OIG Tr. 210:14-21. OIG investigators then presented Roy with certain statements in the CSR attributed to Van Dyke, Walsh, Fontaine, and Viramontes regarding McDonald’s actions immediately before and after the shooting, and asked him to evaluate whether those statements were consistent with the video footage. Roy said that the statements were either consistent or “not inconsistent” with the video evidence. Roy 7/7/2016 OIG Tr. 8:15. More specifically, upon being shown the 813R video, Roy stated that McDonald made five aggressive swings of his knife after Van Dyke and Walsh arrived on the scene.⁴⁴ Roy also said that the video showed McDonald attempting to get up after he was shot.

OIG investigators presented Roy with the allegation that he reviewed and approved the 301 CSR even though it falsely stated that McDonald initiated an attack upon Van Dyke and Walsh. He responded that the allegation was false because he “reviewed a report that had already been submitted by Detective March and approved by Lieutenant Wojcik.” Roy 7/7/2016 OIG Tr. 50:5-8. Roy further stated that he “believe[d] that the video, the entire circumstances substantiate the language in this allegation, that, ‘[McDonald] initiated an attack on Officer Jason Van Dyke and Joseph Walsh.’” Roy 7/7/2016 OIG Tr. 50:9-12. Roy did not have any conversations with March, Gallagher, or Wojcik in which he expressed disagreement with the conclusion that the 813R and 845R videos were consistent with the witness accounts or that Van Dyke’s use of force was lawful.

When asked whether it was proper for the 301 CSR to include findings regarding Officer Van Dyke’s use of force and whether that use was in compliance with state law, Roy answered, “Detective March, in his Supplementary Report, was merely reflecting a decision that had been made by the on-call incident commander, Deputy Chief McNaughton, and he spelled out the reasons.” Roy 7/7/2016 OIG Tr. 44:20-24. According to Roy, the final decision on the appropriateness of Van Dyke’s use of force was McNaughton’s to make. Roy believed that the findings and conclusions included in the 301 CSR were consistent with an aggravated assault investigation, and he had no concerns that those findings and conclusions exceeded the scope of an aggravated assault investigation.

⁴⁴ Upon watching the 813R dashcam video, Roy identified frames in the footage which he believed showed these swings. See Roy 7/7/2016 OIG Tr. 9-17.

7. The 339 CSR

Roy reviewed the 339 CSR pursuant to his BDSO 14-17 review of the investigative file. He did not see the CSR prior to its being approved. Roy did not have any communications with March, Gallagher, or Wojcik regarding the report's description of the homicide as "criminal attacked officer, that officer attacked criminal" and said that that description is "consistent with all the evidence we've seen." Roy 7/7/2016 OIG Tr. 64:14-16. With respect to the 339 CSR's "manner/motive" section, Roy stated that "[t]he statement that McDonald was shot and killed by Van Dyke while McDonald was committing an aggravated assault with a knife against Officers Van Dyke and Walsh is consistent with the investigation." Roy 7/7/2016 OIG Tr. 66:15-19.

8. The HX-475653 Major Incident Notification Detail

Roy described the HX-475653 MIN as "an automated computer-based entry of information regarding a major incident into the Department's recordkeeping system" and identified its purpose as to "provide members of the command staff with a synopsis of major incidents that have occurred in the city." Roy 7/7/2016 OIG Tr. 81:21-24, 82:2-4. Roy first saw the MIN within a "relatively short time after the shooting." Roy 7/7/2016 OIG Tr. 83:4-5. According to Roy, McNaughton reviewed and approved the MIN. When asked whether the statement contained in the MIN, that McDonald continued to approach Van Dyke and Walsh and that Van Dyke discharged his weapon in fear for his life, was accurate, Roy answered, "I think that that statement is consistent with the evidence uncovered in the investigation." Roy 7/7/2016 OIG Tr. 87:6-8.

9. The HX-486155 Case Incident Report

Roy reviewed the HX-486155 Case Incident Report pursuant to his BDSO 14-17 review of the investigative file. March prepared the report, and submitted it to Gallagher, who approved it. When presented with the allegation that that report falsely stated that "McDonald committed aggravated assaults against Officers Gaffney, Van Dyke, and Walsh, and forced Van Dyke 'in defense of his life to shoot and kill McDonald,'" Roy answered, "False." Roy 7/7/2016 OIG Tr. 77:24-78:6. He went on to state that "the investigation reveals that [McDonald] did commit aggravated assaults against the three officers." Roy 7/7/2016 OIG Tr. 78:16-18. When asked whether it was accurate to say that McDonald "forced" Van Dyke to shoot and kill McDonald, Roy answered, "That is consistent with the evidence gathered during the course of the investigation." Roy 7/7/2016 OIG Tr. 78:22-23.

10. Roy's Assessment of the Accuracy of the McDonald Investigative Reports

When Roy was asked whether, as Area Commander, he was ultimately the person who was responsible for ensuring the accuracy of the CSRs in an investigative file, he answered, "Yes." Roy 7/6/2016 OIG Tr. 204:3-6. Roy considered the 301 CSR, the 339 CSR, the Original Case Incident Report, and the MIN to each be truthful, complete, and objective. Roy did not believe any portion of those reports was untruthful.

V. ANALYSIS

OIG's investigation established that Roy, who had formal supervisory responsibility for CPD's investigation related to the McDonald shooting, failed to ensure that his subordinates produced truthful and objective reports regarding that investigation. Roy, upon conducting his mandated review of those reports, failed to hold his subordinates accountable for their materially false statements. Both immediately after the shooting and on an ongoing basis as the investigation unfolded, Roy had substantive knowledge about the events of October 20, 2014 and the progress of the investigation. Nevertheless, he let stand reports that contained materially false statements and put forth a false narrative which served to exaggerate the threat McDonald posed at the time of the shooting. By his own account, Roy was ultimately responsible for ensuring both that CPD conducted the McDonald investigation in accord with CPD Rules and Regulations, and that his subordinates produced accurate investigatory reports. Roy did not fulfill either of those responsibilities.

Roy's actions, individually and collectively, violated CPD Rules. Roy's failure to ensure that the investigative team under his supervision produced truthful, complete, and objective reports constituted a violation of Rule 2 (engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department), Rule 3 (failing to promote the Department's efforts to implement its policy and accomplish its goals), Rule 6 (disobedience of an order or directive), and Rule 11 (incompetency or inefficiency in the performance of duty). Similarly, Roy's failure to take any corrective action following his review of the investigatory file and the reports contained therein also violated Rules 2, 3, 6, and 11.

A supervisory member who has failed to prevent the issuance of materially false official reports has irrevocably tainted not only his credibility, but also the credibility of CPD, and has further failed to promote CPD's goal of employing officers with personal integrity and professional devotion to law enforcement. Accordingly, OIG recommends that CPD discharge Roy.

A. Materially False Reports Issued Under Roy's Supervision

Roy had formal supervisory authority over the team that conducted the McDonald investigation. Under Roy's supervision, that team produced a series of reports, including the 301 CSR, the MIN, and the HX-486155 Case Incident Report, that contained materially false statements.

First, the 301 CSR falsely stated that (1) the "recovered in-car camera video from Beats 845R and 813R was viewed and found to be consistent with the accounts of all of the witnesses"; and (2) "McDonald initiated the imminent use of force likely to cause death or serious injury when he initiated an attack on Officers Jason Van Dyke and Joseph Walsh."

Contrary to the conclusion reached in the 301 CSR, and to Roy's testimony, the dashcam videos of the McDonald shooting are not consistent with the accounts attributed to witnesses. The 301 CSR contains the following statements attributed to witnesses:

- Van Dyke: “When McDonald got to within 10 to 15 feet of Officer Van Dyke, McDonald looked toward Van Dyke. McDonald raised the knife across his chest and over his shoulder, pointing the knife at Van Dyke.” OIG 15-0564 003065-66.
- Van Dyke: “In defense of his life, Van Dyke backpedaled and fired his handgun at McDonald to stop the attack.” OIG 15-0564 003066.
- Van Dyke: “Van Dyke continued to fire his weapon at McDonald as McDonald was on the ground, as McDonald appeared to be attempting to get up, all while continuing to point the knife at Van Dyke.” OIG 15-0564 003066.
- Walsh: “Walsh ordered McDonald to ‘Drop the knife!’ multiple times as McDonald approached the officers.” OIG 15-0564 003067.
- Walsh: “Walsh also backed up, attempting to maintain a safe distance between himself and McDonald.” OIG 15-0564 003067.
- Walsh: “McDonald ignored the verbal direction given by both Walsh and Officer Van Dyke and continued to advance toward the officers.” OIG 15-0564 003067.
- Walsh: “When McDonald got to within 12 to 15 feet of the officers he swung the knife toward the officers in an aggressive manner.” OIG 15-0564 003067.
- Fontaine: “McDonald ignored the verbal direction and instead, raised his right arm toward Officer Van Dyke, as if attacking Van Dyke.” OIG 15-0564 003071.
- Viramontes: “McDonald fell to the ground but continued to move, attempting to get back up, with the knife still in his hand.” OIG 15-0564 003071.

Each of these statements is refuted by the dashcam video footage of the shooting. The video footage of the shooting shows that, before Van Dyke shot McDonald, McDonald was walking in a southwest direction, away from Van Dyke and Walsh, and that it was in fact Walsh and Van Dyke who were moving toward McDonald. The 813R video further establishes that McDonald did not raise the knife he was holding over his shoulder, did not raise his arm toward Van Dyke as if attacking Van Dyke,⁴⁵ and did not swing the knife toward Van Dyke and Walsh in an “aggressive” manner. In addition, the videos demonstrate that Van Dyke and Walsh never backpedaled prior to the shooting, but rather either moved towards McDonald or stayed still. Finally, the video makes clear that, upon being shot and falling to the street, McDonald never attempted to get up. The video shows that McDonald, once on the ground, did not move his legs or lower body. McDonald’s upper body made small, intermittent movements as what appear to be puffs of smoke rose from his body, but those small movements are demonstrably not

⁴⁵ In the March 16, 2016 CSR, this statement is attributed to Officer Fontaine. In her OIG interview, Officer Fontaine denied making this statement, and she herself declined to stand by it as accurate. Fontaine 3/16/2016 OIG Tr. 34:23-35:1; 116:18.

suggestive of a person trying to get up or get to his feet. Thus, the 301 CSR's conclusion that the video evidence is consistent with the witness accounts is a materially false statement.

The 301 CSR's finding that McDonald "initiated the imminent use of force likely to cause death or serious injury when he initiated an attack on Officers Jason Van Dyke and Joseph Walsh," is similarly belied by the video evidence. As summarized, *supra*, the video footage shows McDonald moving away from Van Dyke and Walsh, and does not show him making any movement toward them which could appropriately be characterized as "initiat[ing] an attack."⁴⁶ Notably, during the entire period of time for which Van Dyke and Walsh were outside of their car, McDonald was moving away from them. Accordingly, that finding is also materially false.

Second, the MIN produced by Gallagher also contained materially false statements. According to the MIN's narrative, McDonald "refused all verbal commands and continued to approach the officers while still armed with his knife." OIG 15-0564 003010. As described above, though, video footage of the moments leading up to the shooting make clear that McDonald was not "approaching" Van Dyke and Walsh; rather, McDonald was walking away from the officers as they moved toward him.

Finally, the HX-486155 Case Incident Report, also produced under Roy's command, contained the statement that "McDonald committed aggravated assaults against the three officers, finally forcing Officer Van Dyke, in defense of his life, to shoot and kill McDonald." OIG 15-0564 003300. As set forth above, the objective evidence belies the factual assertion that McDonald "forc[ed]" Van Dyke to shoot him. To the extent that March was making a legal conclusion regarding Van Dyke's use of force, pursuant to the BDSOs, such a conclusion was not procedurally appropriate. *See, e.g.*, BDSO 15-22 (prohibiting detectives from stating that the use of deadly force was justified).⁴⁷

In his OIG interview, Roy affirmed his belief that the above-described reports are truthful and accurate, but disavowed responsibility for the decision-making which produced the findings and conclusions contained in those reports. However, BDSO 14-13 required him to ensure the comprehensive and accurate documentation of the investigation, which he failed to do. From the earliest stages of the investigation, Roy was aware of the false narrative ultimately put forth by his subordinates, but abdicated his responsibility to prevent its memorialization. Specifically, Roy was briefed on the scene as to officers' statements, viewed video of the shooting within hours of its occurrence, and read Gallagher's MIN within days of its completion. He received

⁴⁶ For similar reasons, the statement in the 339 CSR that "Criminal Attacked Officer That Officer Killed Criminal," is also a false statement.

⁴⁷ Contrary to the requirements of BDSO 15-22, the details of the investigation related to the McDonald shooting were reported under the RD number classified as an aggravated assault (HX-475653), rather than the RD number classified as a justifiable homicide (HX-486155). Further, Roy's conflicting comments on whether IPRA, or CPD's OCIC McNaughton, was responsible for determining whether Van Dyke's shooting of McDonald was appropriate reflects a policy-level confusion within CPD on how an investigation related to a police-involved shooting should appropriately proceed. This confusion is further reflected in BDSO 15-22, which contains instructions for reporting on a justifiable homicide while prohibiting the statement of a conclusion that a homicide is justified.

periodic updates from his subordinates in the months that followed, and acted as a point of contact between the investigative team and CPD's command staff.⁴⁸ Thus, in light of the information possessed by Roy regarding the events of October 20, 2014, his failure to prevent his subordinates from drafting false reports concerning those events violated Rules 6 and 11.

In addition, Roy confirmed that he reviewed the file on the McDonald investigation pursuant to BDSO 14-17, which required that, upon completion of the investigative file, it be forwarded to him for review. Roy acknowledged that if during the course of his review he encountered a "demonstrably false statement" in a report, that "would call for initiation of a C[omplaint] R[egister] number and notification of the State's Attorney's Office if it was a pending criminal prosecution." Roy 7/6/2016 OIG Tr. 202:2-5. Roy did encounter several demonstrably false statements in his review and yet he took no such action, effectively endorsing the false conclusions reached by his subordinates. Pursuant to CPD Rules and Regulations, Roy was responsible for "the performance of all subordinates placed under them" and was "accountable for the failure, misconduct or omission" of his subordinates. Further, he was specifically required by special order to hold his subordinates strictly accountable for any failure to comprehensively and accurately document all steps taken during the investigation. Accordingly, Roy's failure to fulfill his supervisory responsibilities constituted violations of Rules 2, 3, 6, and 11.

VI. RECOMMENDATION

The reports issued under Roy's supervision, which he reviewed and for which he was ultimately responsible, contained false statements and misleading characterizations related to the shooting, which served to exaggerate the threat McDonald posed. This raises significant concerns regarding his credibility and ability to perform his duties as a sworn officer and supervisory member. As a sworn officer and a high-level supervisor, Roy's credibility and integrity are critical to his position. Illinois courts have repeatedly noted that "as the guardians of our laws, police officers are expected to act with integrity, honesty, and trustworthiness." *Sindermann v. Civil Service Comm'n*, 275 Ill. App. 3d 917, 928 (2nd Dist. 1995). Further, in his position as a high-level supervisor, Roy had an elevated responsibility to promote CPD's goals and implement its policies; instead, he failed to ensure that his subordinates conducted a complete, thorough, properly documented, and professional investigation related to the McDonald shooting, and in so doing he brought discredit upon CPD and was incompetent in the performance of his duties.

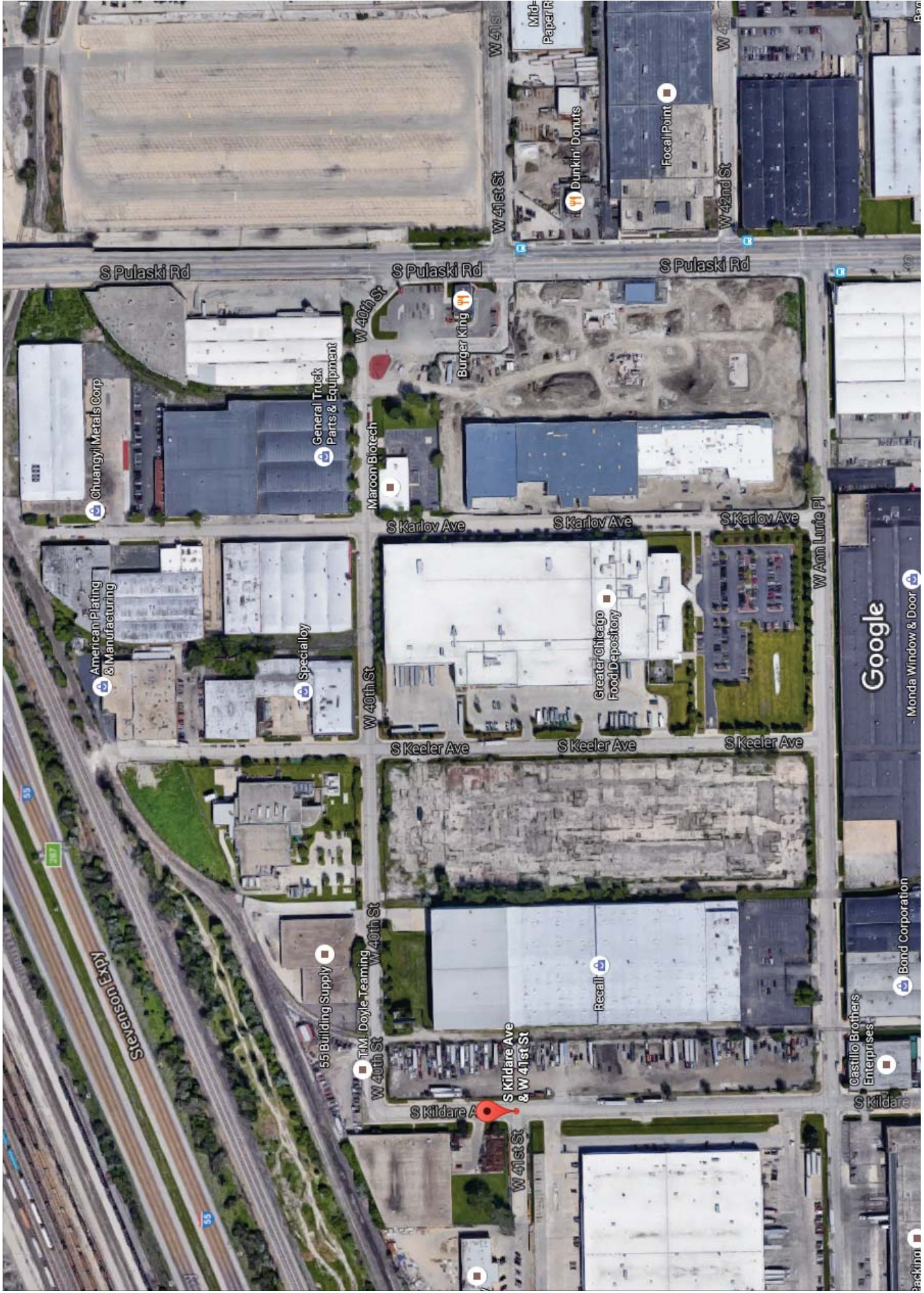
OIG therefore recommends that CPD discharge Roy and refer him for placement on the ineligible for rehire list maintained by the Department of Human Resources.

⁴⁸ In addition to providing information on the case to members of CPD's senior command staff, Roy communicated to his subordinates his assessment of the senior command staff's position on the shooting. He told his subordinates that no one on the senior command staff had raised any questions about Van Dyke's use of deadly force, despite the fact that Roy himself reported that, at the initial shooting briefing, McCarthy raised concerns about the number of shots Van Dyke fired.

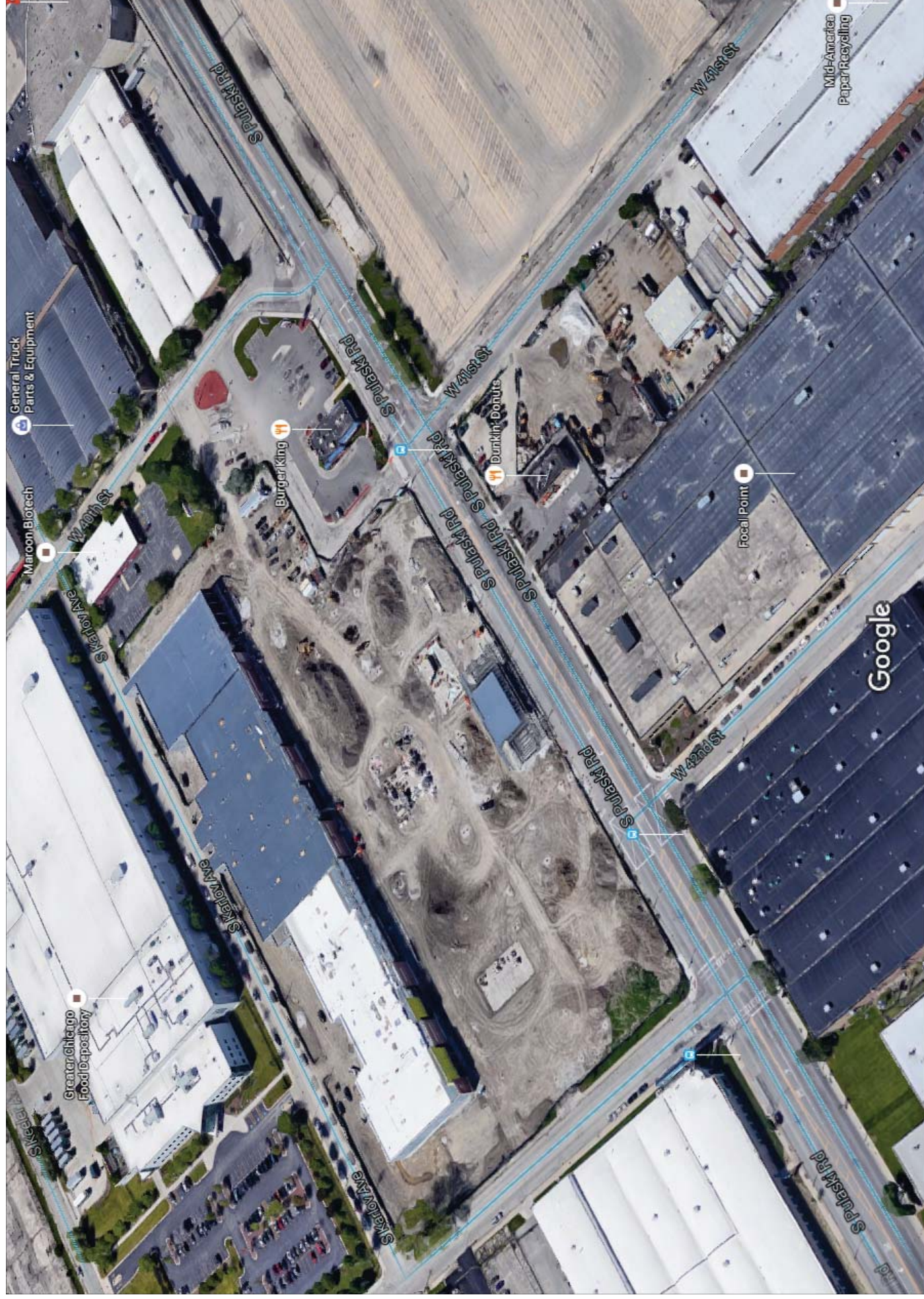
VII. CPD RULE VIOLATIONS

- Rule 2** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 6** Disobedience of an order or directive, whether written or oral.
- Rule 11** Incompetency or inefficiency in the performance of duty.

Appendix A



Imagery ©2016 Google, Map data ©2016 Google 200 ft



Imagery ©2016 Google, Map data ©2016 Google 100 ft

